

JAN 24 2002 13:55

FITCH, EVEN, TABIN & FLANNE 312-577-7007

P. 17

JAN 03 2002 17:33

FITCH, EVEN, TABIN & FLANNE 312-577-7007

P. 11

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: CAPPADONA et al.
Application No.: 09/425,436
Filed: October 22, 1999
Title: LID FOR COOKING
PAN
Group Art
Unit: 1761
Examiner: D. Becker

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington D.C. 20231, on this date.

01/03/02
Date

Joseph E. Shipley
Registration No. 31,137
Attorney for Applicant(s)

DECLARATION OF RICHARD R. CAPPADONA

I, RICHARD R. CAPPADONA, declare under penalty of perjury:

1. I am the president of Carico International Inc., the assignee of the above-captioned application, and am one of the inventors of the patent application. I have 39 years of experience in the cookware industry.

2. The invention claimed in the patent application has been a commercial success. Carico markets cookware embodying the invention under the "Ultra Tech" trademark. This cookware includes the Carico Ultra Tech knob, which has a thermometer that measures the temperature within the pan instantaneously. Our Ultra Tech cookware includes all of the features of at least claims 20-22 of the patent application, and is particularly

-I-

useful for waterless cooking as described in claim 23. Carico actively promotes waterless cooking using the Ultra Tech cookware.

3. In the first year that Carico launched its Ultra Tech Cookware, 2000, we shipped product having a retail value of about \$15 million. For 2001, the value was about \$ 25 million. For 2002, we anticipate shipping about \$32 million. I believe that the increases in sales volume are attributable in large part to the invention, not to increased advertising or other factors.

4. I understand that claims 20-22 have been rejected in view of prior art patents disclosing thermometers in a pressure cooker and in a Weber grill. In my opinion, neither of these patents can fairly be interpreted as suggesting our invention. Pressure cookers function at high temperatures and pressures, i.e., above the boiling point of water, and above ambient pressure. The principles involved in cooking with a pressure cooker are opposite to those of waterless cooking. A pressure cooker requires a locking arrangement to hold and seal the lid in place and maintain internal pressure. A pressure cooker also requires a pressure relief valve that permits increased pressure to be maintained up to a limit. This enables cooking at high temperatures and pressures to take place, while preventing dangerously high pressure from building up in the interior of the cooker. In contrast, waterless cooking takes place at reduced temperatures and at reduced pressures, i.e. under subatmospheric

or partial vacuum conditions, and waterless cookware does not include locking arrangements or pressure relief valves. Cooking in a Weber grill is also much different from stove top cooking using cookware or cooking methods embodying the invention. I believe that a person of ordinary skill in the art would not look to patents on outdoor grills or on pressure cookers for suggestions on modifications to waterless cookware.

5. The invention was not obvious to me at the time it was made, and in my opinion would not have been obvious to a person of ordinary skill in the art of designing and manufacturing cookware. I spent over two years on research and development of this product. I have visited housewares shows in Italy, Germany, Asia and the United States, and I have met with knob manufacturers in various countries as well. To the best of my knowledge, our invention represents the first waterless cookware that is capable of measuring temperature above food items instantaneously. To the best of my recollection, I have not seen any stove top cookware having a thermometer penetrating the lid of a pan as described in claim 20. In particular, to the best of my recollection, I have not seen a pressure cooker having a thermometer penetrating the lid as in the Bauer reference, and I do not believe that the pressure cooker shown in the Bauer reference is a commercial product.

6. To the best of my knowledge, the desirability of

instantaneously measuring temperature above food items in waterless cooking has not been recognized in the past. I believe that the problem addressed by our invention was not recognized in the prior art, which makes it very unlikely that the invention would have been obvious.

7. To the best of my knowledge, there is no other waterless cookware on the market that enables instantaneous determination of temperature. Moreover, to the best of my knowledge, the desirability of providing instantaneous temperature measurement was not recognized in the prior art, and the problem of how to accomplish this was neither recognized nor addressed.

8. Our Ultra Tech cookware is the talk of the industry. I have had inquiries from companies in Germany, Turkey and Japan about manufacturing products similar to our Ultra Tech cookware. We have declined to consent to others manufacturing such products. However, based on my experience in the industry, it is very likely that other companies will copy our invention without permission, unless we have effective patent protection.

9. I declare that all statements of fact made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

JAN 24 2002 13:57

FITCH, EVEN, TABIN & FLANNE

312-577-7007

p.21

JAN 03 2002 17:35

FITCH, EVEN, TABIN & FLANNE

312-577-7007

p.15

United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: January 2, 2002


Richard R. Cappadone